

REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks. The foregoing amendment is being made at the suggestion of the Examiner to allegedly clarify the claim language. The amendment is fully supported by the original specification; no new matter is added.

If the product claims are found allowable in response to the above amendments, Applicants specifically request rejoinder of those method claims that would not raise new issues requiring further consideration, such as issues under 35 U.S.C. §§101 or 112, first paragraph. Whether or not the Examiner determines that allowable process claims exist, it is respectfully requested that the Examiner call the undersigned for the opportunity to cancel any non-allowable process claims rather than the Examiner denying entry of the amendment, in accordance with M.P.E.P. §821.04(b).

Interview of February 21, 2008

Applicants greatly appreciate the courteous and productive interview held with the Examiners on February 21, 2008. The summary of the interview as set forth in the Interview Summary Form is substantially correct.

Amendments

Claim 1 is amended. Claims 2 and 31 are canceled. Claims 1, 3, 31, and 32 are under examination. Claims 4-30 are withdrawn.

Rejection of the claims under 35 U.S.C. §112, 1st paragraph

In the Office Action on page 2, claims 1, 3, 32, and 33 were rejected under 35 U.S.C. §112, 1st paragraph as the specification fails to adequately describe the claimed invention, and that the claims are not enabled by the specification. In light of the following comments, Applicants respectfully request reconsideration of this rejection.

The claims have been amended as suggested by the Examiner in the Office Action, in that the wording of claim 4 as been changed to reflect that only a total of 1-5 amino acids may vary in the sequences of SEQ ID NO: 4 and 6. During the interview held February 21, 2008, the Examiners suggested that if this amendment were made, these rejections, both the enablement and written description, should be overcome. Furthermore, it is asserted that a person of ordinary skill in the art would have sufficient information in the description and in the prior art to determine if a variant protein of SEQ ID NO: 4 and/or 6 would be active sufficient to meet the limitations of the claims.

For at least the foregoing reasons, Applicant respectfully submits that the Claims fully comply with 35 U.S.C. § 112, first paragraph, and therefore respectfully requests withdrawal of the rejections thereof under 35 U.S.C. § 112.

Rejection of the claims under 35 U.S.C. §112, 2nd paragraph

In the Office Action on page 2, claims 1, 3, 32, and 33 were rejected under 35 U.S.C. §112, 2nd paragraph as the claims are allegedly indefinite. In light of the following comments, Applicants respectfully request reconsideration of this rejection.

The claims have been amended as suggested by the Examiner in the Office Action, in that the wording of claim 4 as been changed to reflect that only a total of 1-5 amino acids may vary in the sequences of SEQ ID NO: 4 and 6. In the Office Action, as well as during the interview held February 21, 2008, the Examiners suggested that if this amendment were made, this rejection should be overcome.

For at least the foregoing reasons, Applicant respectfully submits that the Claims fully comply with 35 U.S.C. § 112, second paragraph, and therefore respectfully requests withdrawal of the rejections thereof under 35 U.S.C. § 112.

Conclusion

For at least the foregoing reasons, Applicant respectfully submits that the present patent application is in condition for allowance. An early indication of the allowability of the present patent application is therefore respectfully solicited.

If Examiner Gangle believes that a telephone conference with the undersigned would expedite passage of the present patent application to issue, he is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees necessitated by this paper, and to credit all refunds and overpayments, to our Deposit Account 50-2821.

Respectfully submitted,

By: 
Shelly Guest Cermak
Registration No. 39,571

U.S. P.T.O. Customer No. 38108
Cermak Kenealy & Vaidya, LLP
515 E. Braddock Road, Suite B
Alexandria, VA 22314
703.778.6608

Date: February 25, 2008